IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3591 OF 1990

Smt.Tehminabai E.Bandukwala,
through her Power of Attorney
Holder Herman Joseph Viscent of
Chandansar, Virar, Taluka Vasai,
District Thane. ...Petitioner

Versus

1.Manibai Padman Patil,

2.Jagannath Padman Patil,

Both of village Nile-More,
Taluka Vasai, District Thane. ...Respondents

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Mrs.Anjali Helekar for Petitioner.

Mr.Sangam Sahastrabudhye i/b Mr.G.S.Godbole

for Respondents.

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CORAM: A.M.KHANWILKAR, J.

AUGUST 4, 2004.

ORAL JUDGMENT :

1. This Writ Petition takes exception to the decision of the Maharashtra Revenue Tribunal dated March 5, 1990 in Revision No.TEN.A.8/88. The land in question is agricultural land bearing Survey

No.357(p) situated at Village Nile-More, Taluka Vasai, District Thane. Petitioner is a landlord and the Respondents claim to be tenants thereof. Respondent No.2 was minor on 1st April 1957. Nonetheless, in proceedings for determination of purchase price, the willingness to purchase was expressed on behalf of the Respondent No.2 by Respondent No.1 as his guardian. On that basis, the ALT and Additional Mamlatdar vide order dated August 11, 1962 determined the purchase price and the tenants have been held to be deemed purchasers in respect of the suit land. That decision was challenged for the first time by the Petitioner in the year 1985. The Assistant Collector, however, dismissed the appeal mainly on the ground, being barred by limitation and no sufficient cause was shown. Against that decision, matter was carried in Revision by the Petitioner. Even the Tribunal has rejected the Revision preferred by the Petitioner, affirming the view taken by the Appellate Authority that the appeal preferred after lapse of almost 23 years was barred by limitation and no sufficient cause was shown. This concurrent view is questioned in the present Writ Petition.

2. Counsel for the Petitioner submits that no purchase could have taken place in favour of the Respondent No.2, who was minor at the relevant time i.e. on 1st April 1957, whereas, the tillers' day would stand postponed by virtue of Section 32F of the Act. It is submitted that since the order of determination of purchase price being void, the same ought to have been ignored. In any case, the Petitioner having challenged it before the Appellate Authority, the Appellate Authority ought to have considered the matter on its own merits, instead of non-suiting the Petitioner on technicalities. On the other hand, Counsel for the Respondents submits that there is no infirmity in the view taken by the Authority below and no interference is warranted.

3. Having considered the rival submissions, I have no hesitation in affirming the view taken by the Tribunal that Section 32F of the Act is not a provision disabling the minor from purchasing the suit land on the tillers' day, but it is only a provision enabling such a tenant who is minor or a

disabled person, to purchase the suit land at a later date provided for under Section 32 of the Act. This view is a consistent view taken by this

Court and the Tribunal has rightly relied on the decision reported in **1974 (LXXVII) BLR 141 in the case of Bhau Martand Shelar vs. Hajabai Bala Nadaf**. In that view of the matter, no fault can be found with the decision of the Tribunal or for that matter, the authorities below. Besides, I have no hesitation in affirming the view taken by the Authorities below that the appeal preferred by the Petitioner was hopelessly time barred and no sufficient cause has been shown.

4. Taking any view of the matter, there is no substance in this Writ Petition. The same therefore deserves to be dismissed and the same is dismissed. No order as to costs.

A.M.KHANWILKAR, J.